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DATE FILED: 1/22/2021

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MEMO ENDORSED

JOHN MASULLO,

Plaintiff(s),

-against-

COSTCO WHOLESALE CORPORATION,

Defendant(s).

COSTCO WHOLESALE CORPORATION,

Third-Party Plaintiff(s),

-against-

FOUR SEASONS LANDSCAPE SERVICES INC.,
FOUR SEASON LANDSCAPE INC., and
PEDRO HEREDIA, JR.

Third-Party Defendant(s).

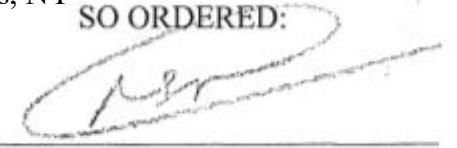
Case No: 7:20-cv-04454

**NOTICE OF MOTION
TO DISMISS
THIRD-PARTY COMPLAINT**

The motion is denied, without prejudice to refile. In the Court's December 17, 2020 order, the Court indicated that the parties should **file all motion documents on the reply date, March 4, 2021. (ECF No. 36.)** The Clerk of the Court is directed to terminate the motion at ECF No. 41.

Dated: 1/22/2021
White Plains, NY

SO ORDERED:



NELSON S. ROMÁN
United States District Judge

PLEASE TAKE NOTICE that upon the attached Declaration of Pedro Heredia, Jr., Memorandum of Law in Support of Third-Party Defendants' Motion to Dismiss and all prior pleadings, orders, and proceedings herein, Third-party Defendants move this Court, before the Honorable Nelson Stephen Roman, United States District Judge, at the United States District Court for the Southern District of New York, Hon. Charles L. Brieant Jr. Federal Building and Courthouse , 300 Quarropas Street, White Plains, NY 10601 for an order dismissing Third-Party Plaintiff's Complaint ("Complaint") in its entirety and with prejudice, pursuant to Federal Rule of Civil Procedure 12(b)(6) because the Complaint fails to state a claim upon which relief can be granted, and pursuant to Rule 8(a) because the Complaint does not allege any specific acts by any

individual Third-Party Defendant, and granting such other relief as this Court deems just and proper.

Pursuant to Judge Roman's Individual Practices in Civil Cases, Third-Party Defendants request oral argument on this motion.

Dated: January 19, 2021
Yonkers, New York

James G. Dibbini & Associates, P.C.

/S/ *James G. Dibbini*

James G. Dibbini, Esq.
570 Yonkers Avenue
Yonkers, NY 10704
(914) 965-1011

Counsel for Third-Party Defendants

To: **Erica Fenstermacher, Esq.**
Giordano, Glaws & Fenstermacher, LLP
61 Broadway, Suite 2235
New York, NY 10006
212-269-2353
Email: ewf@g3law.com

Attorney for Third-Party Plaintiff

Walter Francis Ciacci, Esq.
Dellamura & Ciacci, LLP
977 B. Allerton Avenue
Bronx, NY 10469
(718)-405-1500
Fax: (718)-405-1500
Email: wciacci@dclawllp.com

Attorney for Plaintiff